

AMENDED IN ASSEMBLY MAY 16, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1035

Introduced by Assembly Member Muratsuchi

February 22, 2013

An act to amend ~~Section~~ *Sections 53895 and 53895.7* of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1035, as amended, Muratsuchi. Local agencies: financial reports.

Existing law requires the Controller to annually compile and publish reports of the financial transactions of each county, city, and school district within the state, together with other matters he or she deems of public interest.

Existing law provides that an officer of a local agency who fails or refuses to make and file his or her financial report within 20 days after receipt of a written notice of the failure from the Controller forfeits to the state a specified amount depending on the amount of total revenue of that local agency. Existing law raises these amounts in the case of a community redevelopment agency and a joint powers agency that issues conduit revenue bonds in the 2nd and 3rd consecutive year.

This bill would raise the forfeiture amounts for a joint powers agency to which existing law does not apply. ~~The all agencies.~~

This bill would, with respect to an agency that is not a joint powers agency that issues conduit revenue bonds, double these fines if the agency fails to submit the report to the Controller for 2 consecutive years, and would triple years.

This bill would, for all agencies, triple the fines if the agency fails to submit the report to the Controller for 3 or more consecutive years, in which case years. The bill would, for an agency that is not a joint powers agency that issues conduit revenue bonds, require the Controller would be required to conduct an independent audit report, the cost of which would be reimbursed by the agency. The bill would specify that an agency that makes a forfeiture or payment pursuant to the above provisions would still be responsible for filing the required financial report.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53895 of the Government Code is
2 amended to read:

3 53895. (a) An officer of a local agency to which Section
4 53895.7 does not apply who fails or refuses to make and file his
5 or her report within 20 days after receipt of a written notice of the
6 failure from the Controller shall forfeit to the state:

7 (1) Two thousand five hundred dollars (\$2,500), in the case of
8 a local agency with total revenue, in the prior year, of less than
9 one hundred thousand dollars (\$100,000), as reported in the
10 Controller's annual financial reports.

11 (2) Five thousand five hundred dollars (\$5,500) in the case of
12 a local agency with total revenue, in the prior year, of at least one
13 hundred thousand dollars (\$100,000) but less than two hundred
14 fifty thousand dollars (\$250,000), as reported in the Controller's
15 annual financial reports.

16 (3) Ten thousand dollars (\$10,000) in the case of a local agency
17 with total revenue, in the prior year, of at least two hundred fifty
18 thousand dollars (\$250,000), as reported in the Controller's annual
19 financial reports.

20 ~~(b) (1) Upon the request of the Controller, the Attorney General~~
21 ~~shall prosecute an action for the forfeiture in the name of the people~~
22 ~~of the State of California.~~

23 ~~(2) Upon a satisfactory showing of good cause, the Controller~~
24 ~~may waive the penalties for late filing provided in this section.~~

25 (e)

(b) If an officer of a local agency fails or refuses to make and file his or her report within 20 days after receipt of a written notice pursuant to subdivision (a) for two consecutive years, the *officer shall forfeit an amount that is double the amount of the forfeiture assessed pursuant to paragraphs (1), (2), and (3) of subdivision (a) in the second year shall be doubled.*

~~(d)~~

(c) If an officer of a local agency fails or refuses to make and file his or her report within 20 days after receipt of a written notice pursuant to subdivision (a) for three *or more* consecutive years, the forfeiture ~~or fine~~ assessed pursuant to ~~paragraphs (1), (2), and (3) of subdivision (a) in the third year~~ shall be tripled. In this case, the Controller also shall conduct, or cause to be conducted, an independent financial audit report. With respect to a joint powers agency, the audit report shall be consistent with Section 6505. The agency shall reimburse the Controller for the cost of complying with this subdivision.

~~(e) An agency that makes a~~

(d) A forfeiture or payment *made* pursuant to this section shall ~~still be required to~~ *not relieve an agency of its obligation* file the report required pursuant to Section 53891.

(e) *Upon the request of the Controller, the Attorney General shall bring an action for the forfeiture in the name of the people of the State of California.*

(f) *Upon satisfactory showing of good cause, the Controller shall waive the forfeiture requirements of this section.*

SEC. 2. *Section 53895.7 of the Government Code is amended to read:*

53895.7. (a) For the purpose of this section, “agency” means any agency or entity formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that issues conduit revenue bonds.

(b) An officer of an agency who fails or refuses to make and file his or her report pursuant to this article within 20 days after receipt of a written notice of the failure from the Controller shall forfeit to the state:

(1) ~~One~~ *Two thousand five hundred dollars* ~~(\$1,000)~~ *(\$2,500)* in the case of an agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller’s annual financial reports.

(2) ~~Two-Five~~ thousand five hundred dollars ~~(\$2,500)~~ (\$5,500) in the case of an agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(3) ~~Five-Ten~~ thousand dollars ~~(\$5,000)~~ (\$10,000) in the case of an agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(c) An officer of an agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller in the second ~~or more consecutive~~ year shall forfeit to the state:

(1) ~~Two-Five~~ thousand dollars ~~(\$2,000)~~ (\$5,000) in the case of an agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller's annual financial reports.

(2) ~~Five-Eleven~~ thousand dollars ~~(\$5,000)~~ (\$11,000) in the case of an agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(3) ~~Ten-Twenty~~ thousand dollars ~~(\$10,000)~~ (\$20,000) in the case of an agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(d) In the case of an agency that fails or refuses to make and file its report within 20 days after receipt of a written notice of the failure from the Controller ~~in the third or more consecutive year;~~
the for three or more consecutive years, the forfeiture amount shall be triple the amount described in subdivision (b). The Controller shall conduct, or cause to be conducted, an independent financial audit report consistent with the requirements of Section 6505. The agency shall reimburse the Controller for the cost of complying with this subdivision.

(e) (1) Upon the request of the Controller, the Attorney General shall ~~prosecute~~ *bring* an action for the forfeiture in the name of the people of the State of California.

1 (2) Upon a satisfactory showing of good cause, the Controller
2 ~~may~~ *shall* waive the ~~penalties for late filing provided in~~ *forfeiture*
3 *requirements of this section.*

4 (f) ~~An agency that makes a~~ *A* forfeiture or payment *made*
5 pursuant to this section shall ~~still~~ *not relieve an agency of its*
6 *obligation to* file the report required pursuant to Section 53891.

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